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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,247	03/30/2001	Harmut Kratzke	022701-906	5390

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EXAMINER

PIERCE, JEREMY R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 10/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/719,247

Applicant(s)

KRATZKE ET AL.

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: Claim 1 cites fibers having a "yearn count". This should be changed to "yarn count". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 13 recite fabrics having a "nonwoven surface". It is unclear what this means. Is this a fabric with a surface layer where the surface layer is a nonwoven material? Is the fabric itself nonwoven? Can the fabric be something other than nonwoven, and have its surface somehow modified to become nonwoven without the addition of a further nonwoven layer? The Examiner will assume that the fabric comprises at least one surface layer that is nonwoven.

### ***Claim Rejections - 35 USC § 102***

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 7-9, and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hwang (U.S. Patent No. 4,514,455).

Hwang provides a composite nonwoven fabric that comprises a batt of crimped polyester staple fibers (column 2, lines 54-57). Crimped fibers in the batt have a range of 1 to 3 dtex (column 2, lines 66-67). The limitation that the crimps are three-dimensional is inherent, since real world articles have three dimensions, including crimps. With regard to claims 8 and 14, the material is used as an interliner in apparel (Abstract). With regard to claim 11, the nonwoven has a basis weight between 100 and 250 grams per square meter (column 2, line 62).

6. Claims 1-9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gehrig et al. (U.S. Patent No. 3,929,542).

Gehrig et al. disclose a nonwoven web made from filaments containing helical crimps (column 1, lines 59-68). The yarn count of the filaments can be between 1 and 100 dtex (column 7, line 39). With regard to claim 2, the filaments can be polyamide (column 6, lines 64-68). With regard to claim 3, Gehrig et al. offer examples of polyamides including caprolactam, adipic acid, sebacic acids, and diamines, which are the precursors for forming the various claimed nylons. With regard to claims 4 and 5, Gehrig et al. describe crimping via pneumatic crimping (column 2, lines 15-55). With

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regard to claims 8 and 14, the nonwoven web is used in artificial leather and various articles of clothing.

7. Claims 7, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Oonishi et al. (U.S. Patent No. 3,477,109).

Oonishi et al. disclose a nonwoven textile comprising fiber having three-dimensional coil crimps (column 1, lines 25-50). The textile has a napped surface.

***Claim Rejections - 35 USC § 102/103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 10 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gehrig et al.

Gehrig et al. do not specifically disclose the nonwoven material to have a napped surface. However, Gehrig et al. do teach the nonwoven is useful in carpets and artificial leather. It is common in both arts of artificial leather and carpets to use a nonwoven material with a napped surface. If the material of Gehrig et al. do not already inherently provide a napped surface, it would have been obvious to a person having ordinary skill in the art to nap the surface of the material of Gehrig et al. in order to create a desired texture for use in artificial leather or carpet.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

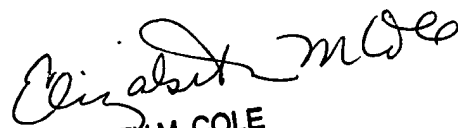
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

0661.



Jeremy R. Pierce  
Examiner  
Art Unit 1771  
October 1, 2002



ELIZABETH M. COLE  
PRIMARY EXAMINER